

United States Court of Federal Claims

July 16, 2008

No. 95-39 C

ANCHOR SAVINGS BANK, FSB,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER CORRECTING CLERICAL MISTAKE PURSUANT TO RCFC 60(a)

Defendant filed, on July 1, 2008, a renewed motion pursuant to Rules 59(a) and 60(a) of the Rules of the Court of Federal Claims (RCFC) to correct a clerical mistake in the Court's March 14, 2008 Opinion and Order, in the above-captioned case. Plaintiff opposes this motion.

On June 27, 2008, final judgment was entered in the amount of \$382,430,910.91, the total amount reflected in the Court's March 14, 2008 Opinion and Order. Of this amount, \$230,460,000.00 reflected the lost profits attributable to the forced sale of the Residential Funding Corporation (RFC). March 14, 2008 Opinion and Order at 144.

The gist of defendant's contention is that the Court erroneously calculated RFC's lost profits from 1990 to 1995 as \$230,460,000.00. Defendant points out that according to Dr. Nevins Baxter, plaintiff's expert witness, this figure overstates RFC's pre-tax profits from 1990 to 1995 by \$25,976,000.00. Accordingly, defendant alleges that Anchor's lost profit damages for the sale of RFC should have been \$204,484,000.00, not \$230,460,000.00, when based upon the figure supplied by Dr. Baxter. March 14, 2008 Opinion and Order at 142; *see* PX 971.

Plaintiff essentially does not dispute these figures. Instead, plaintiff argues that the Court has enough leeway to adopt the larger amount of lost profit damages because "it only partially compensates Anchor for the 1996-97 lost profits that the Court has found Anchor incurred." Plaintiff's Response to Defendant's Renewed Motion To Correct Clerical Mistake, at 2.

Upon careful review of the parties' contentions, the relevant trial exhibits, and Dr. Baxter's testimony, the Court agrees with defendant's proffered correction—that Anchor's lost profit damages attributable to the sale of RFC should have been \$204,484,000.00. Accordingly, correcting Anchor's total lost profits attributable to the sale of RFC in effect reduces the Court's award from \$137,595,000.00 to \$111,619,000.00, which in turn reduces the Court's total judgment from \$382,430,910.91 to \$356,454,910.91.

In consideration of the above, the Clerk of the Court is ORDERED to amend the Final Judgment in the above-captioned case to correctly reflect a final judgment of \$356,454,910.91.

s/ *Lawrence J. Block*

Lawrence J. Block
Judge